

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

★ DEC 28 2009 ★

-----X  
SIMON REYES-LAZO and  
ULICES REYES VELESQUEZ,  
on behalf of themselves, and all others similarly situated,

LONG ISLAND OFFICE

Plaintiffs,

09CV756 (ADS)(AKT)

- against -

ORDER

CAI RESTAURANT, INC., d/b/a CHRISTIANO'S, and  
FREDERICK IPPOLITO, an individual,

Defendants.  
-----X

WHEREAS, the plaintiffs and the class of individual ~~opt-ins~~, having made an application to implement a court-supervised notification to the putative class members, pursuant to 29 U.S.C. § 216(b); and

WHEREAS, plaintiffs' counsel has submitted a Notice of Pendency (annexed hereto as Exhibit "1"), and the Consent to Join Form (annexed hereto as Exhibit "2"); and

WHEREAS, the Court having read and considered the proposed Notice of Pendency, and Consent to Join Form; and

WHEREAS, the Court having determined that there exists substantial and sufficient grounds for entering this Order;

IT IS HEREBY ORDERED that:

1. On or before forty-five (45) days after the entry of this Order, the plaintiffs' counsel shall cause a copy of the aforesaid Notice of Pendency and Consent to Join Form (Exhibit "1" and "2", respectively), to be mailed to:

All current and former employees of CAI Restaurant, Inc. d/b/a Christiano's Restaurant and Frederick Ippolito, who cleaned dishes, cleaned the restaurant, prepared or cooked the food and/or

performed general maintenance for the restaurant from February 24, 2003, through the present.


2. The Court approves the aforesaid Notice of Pendency and Consent to Join Form (annexed hereto as Exhibits "1" and "2", respectively), and finds that the mailing of such Notice of Pendency and Consent to Join Form in the manner set forth in paragraph "1" of this Order, will constitute the best notice practicable under the circumstances to members of the class.

3. Within fifteen (15) business days after the entry of this Order, defendants shall furnish plaintiffs' counsel with a list containing the names and last known addresses of all current and former employees of CAI Restaurant, Inc. d/b/a Christiano's Restaurant and Frederick Ippolito, who cleaned dishes, cleaned the restaurant, prepared or cooked the food and/or performed general maintenance for the restaurant from February 24, 2003, through the present. To the extent possible, this mailing list is to be furnished in electronic form.

SO ORDERED:

Dated: Central Islip, New York  
November \_\_, 2009

**SO ORDERED**

  
A. Kathleen Tomlinson  
United States Magistrate Judge  
Date: December 28 2009  
Central Islip, N.Y.

## **EXHIBIT “1”**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
SIMON REYES-LAZO and  
ULICES REYES VELESQUEZ,  
on behalf of themselves  
and on behalf of all others similarly situated,

Plaintiffs,

- against -

CAI RESTAURANT, INC. d/b/a CHRISTIANO'S, and  
FREDERICK IPPOLITO, an individual,

Defendants.  
-----X

09CV756 (ADS) (AKT)

**NOTICE OF PENDENCY**

**IMPORTANT NOTICE  
ADVISING YOU OF  
YOUR LEGAL RIGHTS**

*This is a court authorized notice. This is not a solicitation or advertising from a lawyer.*

**IF YOU WERE EMPLOYED BY CHRISTIANO'S RESTAURANT, LOCATED AT 19 IRA ROAD, SYOSSET, NEW YORK, AND YOU:**

- CLEANED DISHES
- CLEANED THE RESTAURANT
- PREPARED OR COOKED FOOD
- PERFORMED GENERAL MAINTENANCE

**PLEASE READ THIS NOTICE CAREFULLY**  
**THIS COULD AFFECT YOUR LEGAL RIGHTS**

**1. YOU MAY HAVE THE RIGHT TO JOIN THIS COLLECTIVE ACTION SUIT**

Former employees, Simon Reyes-Lazo and Ulices Reyes Velezquez (collectively, "plaintiffs") have brought this lawsuit against Christiano's Restaurant located at 19 Ira Road, Syosset, New York, and Frederick Ippolito, alleging that they violated the minimum wage and the overtime pay provisions of the Fair Labor Standards Act (FLSA). Plaintiffs were employed by Christiano's to clean dishes, prepare or cook food, clean the restaurant and/or performs general maintenance. The lawsuit seeks back pay and liquidated damages from the defendants, as well as costs and attorney's fees to compensate eligible employees.

Defendants CAI Restaurant, Inc. d/b/a Christiano's and Frederick Ippolito deny the allegations made by the plaintiffs, and deny that they are liable to plaintiffs for any back pay, damages, costs or any attorneys' fees sought.

The Judge has not yet decided who is right and who is wrong, but is giving the opportunity to all those employees who are potentially similarly situated to plaintiffs and who might have been affected by these alleged violations to join this collective action suit.

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2. YOUR RIGHT TO PARTICIPATE IN THIS SUIT

If you were employed by Christiano's Restaurant from February 24, 2003<sup>1</sup> until now, you may join Simon Reyes-Lazo and Ulices Reyes Velesquez in this suit (that is, you may "opt-in") by mailing the "Consent to Join Form" in the enclosed self-addressed stamped envelope to Plaintiffs' Counsel at the following address:

MISIANO SHULMAN CAPETOLA & KESSLER, LLP  
510 Broadhollow Road, Suite 110  
Melville, New York 11747  
(631) 499-9100

You also have the right to consult with another attorney of your choice.

If you decide to join, you must send the form on or before (60 days from the day of mailing). After such date, you may not be able to participate in this lawsuit.

3. EFFECT OF JOINING THIS SUIT

If you join this lawsuit you may be required to produce documents, respond to written questions and/or testify under oath at a pre-trial deposition or at a trial in Court. In addition, if you choose to join this lawsuit, you will be bound by any decision of the Court, judgment of the Court, or settlement, whether favorable or unfavorable.

By completing and timely returning the Consent to Join form, you are agreeing to have plaintiffs, Simon Reyes-Lazo and Ulices Reyes Velesquez, act as your agents to make decisions on your behalf concerning this lawsuit.

The plaintiffs' attorneys are being paid on a contingency fee basis, which means that if there is no recovery, they will not receive any attorneys' fees. If the plaintiffs prevail and there is recovery, the Court will decide the amount of fees to be paid to their attorneys. The Court may order that attorneys' fees be paid from the money judgment entered in favor of plaintiffs, or that they be paid separately by the defendants, or some combination of the two.

4. EFFECT OF NOT JOINING THIS LAWSUIT

If you choose not to join this lawsuit, you do not need to do anything. If you do not join the lawsuit, you will not be affected by any judgment or settlement rendered in the lawsuit, whether favorable or unfavorable, and you remain free to file your own lawsuit under the FLSA.

5. YOUR LEGAL REPRESENTATION IF YOU JOIN

If you choose to join this suit, and agree to be represented by the plaintiffs' attorneys, your counsel in this action will be:

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<sup>1</sup> Note that at this time, only the federal law FLSA claims are at issue with respect to this Notice. The federal law FLSA claims allow for recovery from within three (3) years preceding the present date. However, should a class be certified for overtime claims arising from New York State law in the future, those state law claims permit recovery from six (6) years preceding the present date.

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MISIANO SHULMAN CAPETOLA & KESSLER, LLP  
Troy L. Kessler, Esq.  
510 Broadhollow Road, Suite 110  
Melville, New York 11747  
(631) 499-9100

6. COUNSEL FOR DEFENDANTS

The attorneys for the Defendants are:

JASPAN SCHLESINGER, LLP  
Christopher E. Vatter, Esq.  
300 Garden City Plaza  
Garden City, New York 11530  
(516) 746-8000

7. NO RETALIATION PERMITTED

Federal law prohibits CAI Restaurant, Inc. d/b/a Christiano's and Frederick Ippolito from firing or in any other manner discriminating against you because you decide to join this lawsuit.

**PLEASE DO NOT CONTACT THE JUDGE OR THE CLERK OF THE COURT WITH ANY QUESTIONS ABOUT THIS LAWSUIT**

Dated: ~~November 2009~~

SO ORDERED:

**SO ORDERED**

\_\_\_\_\_  
A. Kathleen Tomlinson  
United States Magistrate Judge

Date: December 28 2009  
Central Islip, N.Y.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
SIMON REYES-LAZO and  
ULICES REYES VELESQUEZ,  
on behalf of themselves  
and on behalf of all others similarly situated,

Plaintiffs,

- against -

CAI RESTAURANT, INC. d/b/a CHRISTIANO'S, and  
FREDERICK IPPOLITO, an individual,

Defendants.  
-----X

09CV756 (ADS) (AKT)

**AVISO DE PENDENCIA**

**NOTIFICACION IMPORTANTE  
DE AVISO DE DERECHOS  
LEGALES**

*Esto es una notificación autorizado por la Corte. Esto no es una solicitud ó anuncio de un abogado.*

**SI USTED ESTABA EMPLEADO POR EL RESTAURANTE CHRISTIANO'S,  
LOCALIZADO EN 19 IRA ROAD, SYOSSET, NUEVA YORK, Y USTED:**

- |                  |                        |
|------------------|------------------------|
| • LIMPIÓ PLATOS  | • LIMPIÓ EL RESTAURANT |
| • HA PREPARADO Ó | • HIZO MANTENIMIENTO   |
| COCINADO COMIDA  | GENERAL                |

**POR FAVOR LEA ESTE AVISO CON CUIDADO**  
**ESTE PODRÍA AFECTAR SUS DERECHOS LEGALES**

1. **PUEDE TENER EL DERECHO DE PARTICIPAR CON ESTA DEMANDA DE  
ACCIÓN COLECTIVO**

Empleados anteriores, Simon Reyes-Lazo y Ulices Reyes Velesquez (colectivamente, "demandantes"), han comensado esta demanda contra el Restaurante de Christiano's localizado en 19 Ira Road, Syosset, Nueva York, y Frederick Ippolito, alegando que violaron el sueldo minimo y provisiones de sobresueldo o pago por sobretiempo del Fair Labor Standards Act (FLSA). Los demandantes fueron empleados por Christiano's para limpiar platos, preparar o cocinar comida, limpiar el restaurante y/o hacer mantenimiento general. La demanda busca recobrar sueldo antepasado y daños liquidos de los acusados, con gastos y horarios de los abogados para compensar a los empleados que sean elegibles.

El Restaurante de Christiano's y Frederick Ippolito niegan las acusaciones hechas por los demandantes, y niegan que son responsables a los demandantes por sueldo antepasado, daños, y gastos o honorarios de abogados.

El Juez no ha decidido quién tiene la razón o quién tiene culpabilidad pero está dando la oportunidad a todos los empleados, similarmente situados con los demandantes que puedan haber estado afectados por estas infracciones a participar en esta demanda de acción colectiva.

2. SU DERECHO DE PARTICIPAR EN LA DEMANDA

Si usted estaba empleado por el Restaurante de Christiano's a partir del 24 de Febrero del 2003<sup>1</sup> hasta hoy día, usted puede participar con Simon Reyes-Lazo y Ulices Reyes Velesquez en esta demanda (es decir usted puede "añadirse") al mandar la "FORMA DE CONSENTIMIENTO DE AFILIARSE" en el sobre enviado franqueado con su dirección a los Abogados de los Demandantes a la dirección siguiente:

MISIANO SHULMAN CAPETOLA & KESSLER, LLP  
510 Broadhollow Road, Suite 110  
Melville, New York 11747  
(631) 499-9100

Usted también tiene el derecho de consultar con otro abogado de su elección.

Si usted decide participar, usted debe mandar la forma en o antes de (60 días a partir del día del envío). Después de esta fecha, usted no podrá participar en esta demanda.

3. EFEECTO DE AFILIARSE A ESTA DEMANDA

Si escoge participar en esta demanda, puede ser requerido que usted produzca documentos, responda preguntas escritas y/o declare, conforme al juramento, a una deposición de preproceso o en un proceso en la Corte. Además, si usted decide participar en la demanda, usted estará ligado por cualquier decisión de la Corte, juicio de la Corte, o establecimiento, sea favorable o desfavorable.

Si usted completa y regresa la Forma de Consentimiento a tiempo, usted está de acuerdo en tener los demandantes, Simon Reyes-Lazo y Ulices Reyes Velesquez, actuar como sus agentes para hacer decisiones de su parte con respecto a esta demanda.

Los abogados de los demandantes se pagan por contingencia, que quiere decir que si no hay recuperación, no reciben pago por servicios. Si los demandantes prevalecen y hay un recobro, la Corte decidirá los honorarios que le serán pagados a los abogados. La Corte puede ordenar que los abogados reciban pago del fallo monetario asentado a favor

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<sup>1</sup> Note que en este tiempo, sólo las reclamaciones de la ley federal de FLSA son en cuestión con respecto a este Aviso. Las reclamaciones de FLSA permite la recuperación en cuenta desde dentro tres (3) años precediendo a la fecha presente. Sin embargo, debe una clase ser certificado para reclamaciones de horas extras que provienen de la ley de Estado de Nueva York en el futuro, aquella recuperación da permiso de reclamaciones de la ley estatal a partir de seis (6) años precediendo a la fecha presente.



de los demandantes, ó que se les pague por separado por los acusados, ó alguna combinación de los dos.

4. EFFECTO DE NO AFILIARSE A ESTA DEMANDA

Si usted decide no participar en esta demanda, usted no tiene que hacer nada. Si usted no quiere participar en la demanda, no sería afectado por ningún juicio de corte ó arreglo de la demanda, sea favorable ó no, y usted esta en libertad de empezar su propia demanda por FLSA.

5. SU REPRESENTACIÓN LEGAL SI USTED DECIDE PARTICIPAR

Si usted decide participar en esta demanda, y esta de acuerdo que sea representado por los abogados de los demandantes, su consejero en esta demanda sería:

MISIANO SHULMAN CAPETOLA & KESSLER, LLP  
Troy L. Kessler, Esq.  
510 Broadhollow Road, Suite 110  
Melville, New York 11747  
(631) 499-9100

6. ABOGADOS DE LOS DEMANDADOS

JASPAN SCHLESINGER, LLP  
Christopher E. Vatter, Esq.  
300 Garden City Plaza  
Garden City, New York 11530  
(516) 746-8000

7. REPRESALIAS NO SE PERMITE


La ley federal prohíbe el Restaurante de Christiano's y Frederick Ippolito despedir ó en cualquier otra manera discriminar contra usted porque usted decidió participar en esta demanda.

**POR FAVOR NO TRATE DE CONTACTAR EL OFICINISTA DEL JUEZ O EL OFICINISTA DE LA CORTE CON PREGUNTAS ACERCA DE ESTA DEMANDA**

Fecha: \_\_\_\_\_

ORDENADO:

**SO ORDERED**

  
A. Kathleen Tomlinson  
United States Magistrate Judge  
Date: December 28 20 09  
Central Islip, N.Y.

## **EXHIBIT “2”**

**CONSENT TO JOIN FORM**

I hereby consent to join the lawsuit known as Reyes-Lazo v. CAI Restaurant, Inc., d/b/a Christiano's, et. al., Case Number 09CV756, to assert claims against the defendants for violations of the Fair Labor Standards Act, 29 U.S.C. §201, *et. seq*

I hereby designate Misiano Shulman Capetola & Kessler, LLP, to represent me in the suit.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Phone Number

**PLEASE RETURN THIS FORM IN TIME FOR FILING WITH THE COURT [60 DAYS FROM THE DATE NOTICE IS MAILED]:**

Misiano Shulman Capetola & Kessler, LLP  
510 Broadhollow Road, Suite 110  
Melville, New York 11747  
(631) 499-9100

**FORMA DE CONSENTIMIENTO DE AFILIARSE**

Por este medio consiento para afiliarme al pleito contra Reyes-Lazo v. CAI Restaurant, Inc., d/b/a Christiano's, y. Al-, Número de Caso 09CV756, para afirmar reclamaciones contra los demandados para violaciones del Acto de Estándares de Trabajo Justo, 29 Congreso de los Estados Unidos §201, *et. seq*

Por este medio designo a Misiano Shulman Capetola y Kessler, LLP, para representarme en el pleito.

\_\_\_\_\_  
Firma

\_\_\_\_\_  
Nombre en Letra

\_\_\_\_\_  
Dirección

\_\_\_\_\_  
Ciudad, Estado y Código Postal

\_\_\_\_\_  
Número de Teléfono

**POR FAVOR DEVUELVE ESTE FORMA EN TIEMPO PARA ARCHIVAR CON LA CORTE EN Ó ANTES [60 DAYS FROM THE DATE NOTICE IS MAILED]:**

Misiano Shulman Capetola & Kessler, LLP  
510 Broadhollow Road, Suite 110  
Melville, New York 11747  
(631) 499-9100